

IN THE UNITED STATES PATENT OFFICE

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APR 14 2004

**OFFICE OF PETITIONS**

**PATENT APPLICATION**

Ammicht-Davis-Shively

**CASE 5-3-15**

**TITLE** Improved Coefficient Computation in Image  
Compression Using Set Partitioning in Hierarchical Trees

**APPLICATION NO.** 09/872,810

**FILED:** June 4, 2001

**THE COMMISSIONER OF PATENTS AND TRADEMARKS**  
**WASHINGTON, D. C. 20231**

**SIR:**

In Re: Renewed Petition under 37 CFR 1.137 (a) or under 37 CFR 1.137 (b)

This responds to the Decision on Renewed Petition dated Mar 08 2004.

Applicants thank Petitions Attorney Congo for the courtesy of a brief telephone interview on April 7, 2004 in the afternoon. As advised on the call, partial reconsideration, relating ONLY to the fee charged, is requested.

In paper No. 10, the Petitions Attorney DISMISSED applicants' petition under 37 CFR 1.137(a) and 37 CFR 1.137(b).

The Petitions Attorney however stated that the Petition to Revive under 37 CFR 1.137 (b) lacked only a copy of the Declaration in order for the Petition to be grantable.

Accordingly, accompanying this response is a certified copy of the 3-page Declarations. This copy is identical to the Declaration that the Petitions Attorney has found to have been "timely filed" but that was "likely misplaced by the Office".

While the submission of the certified copy of the Declaration herewith places the Petition to Revive under 37 CFR 1.137 (b) in a condition of "grantable", Applicants remain unconvinced that any Petition to revive is necessary under the facts of the situation. Applicants' argument is as follows.

As is now established, Applicants in response to the Notice to file Missing Parts of 07/31/2001 did timely file a declaration.

The 07/31/2001 Notice also advised applicants to file "substitute drawings" because of one reason only: "the drawing sheets do not have the appropriate margins". The Notice did NOT state that the drawings did not permit examination, which holding would have required applicants to submit new drawings within a TWO-MONTH period.

As to "substitute drawings" which the Notice of 07/31/2001 required, the MPEP states:

"In those situations where an application is filed with informal drawings, applicants are requested to file new acceptable drawings before allowance of the application....".

Applicants therefore had latitude to file substitute drawings at a later time - which time (according to the plain provisions of the MPEP) could have been "before allowance".

The Petitions Attorney's contention that the application was held to be abandoned as of October 1, 2001 for the further reason of Applicants' failure to timely file substitute drawings therefore is believed to be not correct. Applicant had latitude to file substitute drawings at a later time because the submitted drawings were adequate to enable examination.

Put another way, as of October 1, 2001 - the date the Petitions Attorney cites as the day Applicants' case became abandoned by matter of law -if the Office had had in-hand (instead of misplacing) applicants' declaration, there is no way the Office could have or would have held applicants' application "abandoned" because of applicants' having not yet filed substitute drawings.

The undersigned did indeed conclude at the time of addressing the Notice to file missing parts that no substitute drawings were needed because of a mistaken idea that they had already been submitted. The "admission" as the Petitions attorney calls it, is however of no real consequence because the time requiring substitute drawings had not yet arrived.

Thus, the question as to whose fault this abandonment is, remains unanswered to applicants' satisfaction.

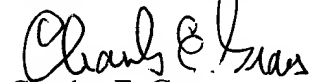
The issues are three: The first is TIME. By this filing Applicants ask the Petitions Examiner to accept the certified copies of the declarations to fulfill the "Missing Parts" holding; and to release the case expeditiously to an Examiner.

The second issue is the PRINCIPLE of the matter. It is respectfully submitted that a holding of abandonment under these facts lacks the basis that ought to guide such holdings.

The third, issue, which is non-trivial, relates to the MONEY being paid to revive an application. Applicants' client Lucent Technologies Inc. is not desirous of being required to pay for fees that ought not be levied.

Therefore while Applicants ask that the case be moved to examination (since applicants have now satisfied all requirements INCLUDING PAYMENT OF THE FEE) the only further action requested is that the fee charges be reviewed and waived in this case.

Respectfully submitted:

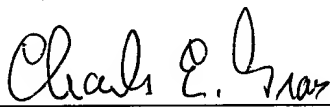


Charles E. Graves  
Attorney for Applicants  
Reg. No. 22963  
APRIL 7, 2004.

Att.: one (1) copy of 3-page Declaration

#### CERTIFICATE OF MAILING

The undersigned certifies that he personally placed this renewed Petition in a mail box in Austin TX on April 7, 2004.

Charles E. Graves \_\_\_\_\_